

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JOHN FRANKS,

Plaintiff, : Case No. 3:08-cv-025

-vs- : District Judge Thomas M. Rose
MICHAEL J. ASTRUE, Chief Magistrate Judge Michael R. Merz
Commissioner of Social Security,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATIONS

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. No. 13), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on July 31, 2008, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Defendant's Motion to Dismiss (Doc. No. 10) be, and it hereby is, denied.

August 5, 2008.

***S/THOMAS M. ROSE**

Thomas M. Rose
United States District Judge